

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ANDREW M. CUOMO,

Movant,

v.

LINDSEY BOYLAN,

Respondent.

Case No. 23-mc-01587 (LDH)

Oral Argument Requested

**DECLARATION OF JULIE R. F. GERCHIK IN SUPPORT OF
RESPONDENT LINDSEY BOYLAN'S OPPOSITION TO ANDREW M. CUOMO'S
MOTION TO COMPEL AND LINDSEY BOYLAN'S CROSS MOTION TO QUASH**

I, JULIE R. F. GERCHIK, hereby declare to the best of my knowledge:

1. I am an attorney duly licensed to practice law before all courts of the State of California, and a partner of Glaser Weil Fink Howard Jordan & Shapiro LLP.

2. I have filed a motion to appear *pro hac vice* in the above-captioned matter on behalf of Respondent Ms. Boylan. That motion is currently pending at ECF 14. I have been admitted to appear *pro hac vice* on behalf of Ms. Boylan in the related case *Trooper 1 v. New York State Police, et al.*, No. 22-cv-00893 (LDH) (TAM) (the “Trooper 1 Action”).

3. I submit this declaration in support of Respondent Lindsey Boylan's Opposition to Andrew M. Cuomo's Motion to Compel and Ms. Boylan's Cross Motion to Quash.

4. Attached hereto as **Exhibit 1** is a true and correct copy of the OAG's Report of Investigation into Allegations of Sexual Harassment by Governor Andrew M. Cuomo, dated August 3, 2021 (the “OAG Report”). The report and accompanying appendices are *available* at: <https://ag.ny.gov/press-release/2021/independent-investigators-find-governor-cuomo-sexually->

harassed-multiple-women. Redacted videos and transcripts of sworn testimony taken for the investigation are *available* at: <https://ag.ny.gov/CuomoIndependentInvestigation>.

5. Attached hereto as **Exhibit 2** is a true and correct copy of the August 10, 2021, New York Times article *Read the full transcript of Gov. Andrew Cuomo's resignation speech*, available at: <https://www.nytimes.com/2021/08/10/nyregion/cuomo-resignation-speech-transcript.html>.

6. Attached hereto as **Exhibit 3** is a true and correct copy of the Impeachment Investigation Report to Judiciary Committee Chair Charles Lavine and New York State Assembly Judiciary Committee (the “AJC”), dated November 22, 2021, *available* at: https://nyassembly.gov/write/upload/postings/2021/pdfs/20211122_99809a.pdf.

7. Attached here to as **Exhibit 4** is a true and correct copy of the Declaration of Serena Longley, dated November 8, 2022, filed in support of the OAG’s Cross-Motion to Quash and Opposition to Cuomo’s Motion to Compel in *Cuomo v. Office of the N.Y. State Att'y Gen.*, No. 22-mc-3044 (E.D.N.Y.).

8. Attached hereto as **Exhibit 5** is a true and correct copy of the Subpoena to Produce Documents, dated March 30, 2023, served by Governor Cuomo on Ms. Boylan in connection with the Trooper 1 Action (the “Document Subpoena”).

9. Attached hereto as **Exhibit 6** is a true and correct copy of the Subpoena to Testify at a Deposition, dated March 30, 2023, served by Governor Cuomo on Ms. Boylan in connection with the Trooper 1 Action (the “Deposition Subpoena”).

10. On April 4, 2023, Ms. Boylan’s counsel agreed to accept service of both the Deposition Subpoena and the Document Subpoena.

11. Attached hereto as **Exhibit 7** is a true and correct copy of a Notice to Subpoena, dated May 10, 2023, corresponding to a Subpoena to Produce Documents addressed to the Empire State Development Corporation.

12. Attached hereto as **Exhibit 8** is a true and correct copy of a Notice to Subpoena, dated May 10, 2023, corresponding to a Subpoena to Produce Documents addressed to Elizabeth Fine.

13. Attached hereto as **Exhibit 9** is a true and correct copy of a Notice to Subpoena, dated May 11, 2023, corresponding to a Subpoena to Produce Documents addressed to Howard Zemsky.

14. Attached hereto as **Exhibit 10** is a true and correct copy of a Notice to Subpoena, dated May 15, 2023, corresponding to a Subpoena to Produce Documents addressed to Cade Lebron.

15. Attached hereto as **Exhibit 11** is a true and correct copy of a Notice to Subpoena, dated June 20, 2023, corresponding to a Subpoena to Produce Documents addressed to the Office of the Governor of New York State (“Executive Chamber”).

16. Attached hereto as **Exhibit 12** is a true and correct copy of a Notice to Subpoena, dated June 20, 2023, corresponding to a Subpoena to Produce Documents addressed to Lindsey for New York.

17. Attached hereto as **Exhibit 13** is a true and correct copy of a Notice to Subpoena, dated June 20, 2023, corresponding to a Subpoena to Produce Documents addressed to Verizon.

18. Attached hereto as **Exhibit 14** is a true and correct copy of Luis Ferré-Sadurní’s and Grace Ashford’s January 13, 2022 New York Times article *An Emboldened Cuomo Takes*

Swings at Accusers and Investigators, available at:

<https://www.nytimes.com/2022/01/13/nyregion/andrew-cuomo-rita-glavin.html>.

19. Counsel for Ms. Boylan and Mr. Cuomo met and conferred on April 19, 2023.

Later that day, counsel for Ms. Boylan confirmed that Ms. Boylan agreed to provide responses and objections to the Document Subpoena on April 25, 2023 but reserved her right to contest either or both the Document Subpoena and Deposition Subpoena pursuant to Fed. R. Civ. P. 26(c) or 45(d)(3).

20. On April 25, 2023, counsel for Ms. Boylan served Responses and Objections to the Document Subpoena.

21. In an attempt to resolve the dispute in good faith without judicial intervention, counsel for Ms. Boylan further met and conferred with counsel for Mr. Cuomo on May 2, 2023; May 4, 2023; and May 15, 2023.

22. On May 16, 2023, Ms. Boylan's counsel confirmed, via email, that Ms. Boylan would produce documents in response to Requests No. 1, 2, 3, 4, 11, and 16, except to the extent such requests overlap with the other Requests, if Mr. Cuomo would agree to not pursue the other requests.

23. On May 18, 2023, counsel for Mr. Cuomo rejected, via email, Ms. Boylan's May 16, 2023 offer to produce documents in response to Requests No. 1, 2, 3, 4, 11, and 16 (except to the extent such requests overlap with the other Requests), and confirmed that they believed Ms. Boylan and Mr. Cuomo were at an impasse in regard to the Document Subpoena.

24. On June 2, 2023, counsel for Ms. Boylan nonetheless voluntarily produced the documents Ms. Boylan previously provided to the OAG and AJC investigations.

25. Attached hereto as **Exhibit 15** is a true and correct copy of a redacted transcript of Ms. Boylan's sworn testimony on May 20, 2021 before the New York State Office of the Attorney General ("OAG"), available at: https://ag.ny.gov/sites/default/files/2023-01/2021.05.20_lindsey_boylan_cleary_11.09.2021.pdf.

26. Even if Ms. Boylan's allegations had some relevance to the Trooper 1 Action (which they do not), based on my review of the Amended Complaint in this matter the parties do not have a strong need for the information Mr. Cuomo is seeking from Ms. Boylan based on the significant publicly available information, including Ms. Boylan's prior sworn testimony.

27. Nevertheless, Ms. Boylan, at her own expense has already had all her electronic devices and her entire set of email forensically collected by a third-party ESI vendor. The resulting collection amounts to more than 550,000 searchable documents. As Mr. Cuomo's subpoena requests are incredibly broad, this will potentially require Ms. Boylan and her counsel to review thousands and thousands of documents, or more.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed on June 28, 2023 in Los Angeles, California.

/s/ Julie R. F. Gerchik
Julie R. F. Gerchik